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FISH & RICHARDSON PC			PAUL, DISLER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/811,266

Applicant(s)

BERARDI ET AL.

Examiner

Disler Paul

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-6 is/are allowed.
- 6) ☒ Claim(s) 7-12 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 8/15/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

2. Claims 7,10-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Coats et al. (US 7,242,779 B2).

Re claim 7, Coats et al. disclose of the method of dynamic equalizing (fig.1-4) comprising, sensing the level of an input audio signal to provide a sensed input level signal (fig.1 /124; col.9 line 30-35), sensing the setting of a manually operated volume control (fig.1,4(130A); col.10 line 40-54), the sensing of said input audio signal level occurring before the input signal is delivered to said

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operated volume control (fig.1,4(124,130A), processing the audio signal after having its volume adjusted by said set volume control with an adjustable frequency response adjusted in response to both the sensed input level signal and the manually operated volume control setting (fig.1 (132); col.11 line 27-34), limiting the dynamic range of the sensed input level signal, and feeding back a signal that helps the sensed input level signal avoid sudden changes (fig.1 (128), col. 10 line 5-15).

RE claim 10, the method in accordance with claim 7 and allowing the sensed input level signal to increase in accordance with a first attack time constant and decrease in accordance with a second decay time constant different from said first time constant (fig.5; col.10 line 55 & col.11 line 14).

Re claim 11, Coats et al. disclose of the dynamic equalizing apparatus (fig.1-4) comprising, an input terminal and an output terminal, a manually controlled volume controller between said input terminal and said output terminal (fig.1 wt (130A), manual controller in between), a level detector having its input coupled to said input terminal and providing a level signal representative of the level on said input terminal (fig.1 (124), a limiter coupled to said level

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detector constructed and arranged to limit the dynamic range of said level signal (fig.1 (128)), a feedback path from the limiter to the level detector (fig.4 wt (130A,124/feedback in between limiter and detector); , a filter of bass spectral components coupled between said manually controlled volume controller and said output terminal (fig.1 (132,140); col.11 line 26-34), a signal processor coupled between the level detector and the filter constructed and arranged to provide a gain signal representative of a desired gain between said filter and said output terminal that is dependent upon the input signal level and the manually set volume controller setting (fig.1 wt (130A)), and a gain controller between the filter and said output constructed and arranged to establish said desired gain in response to said gain signal (fig.1 wt (144); col.12 line 55-60).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Coats et al. (US 7,242,779 B2) and further in view of Official Notice.

Reclaim 12, Coats disclose of the dynamic equalizing apparatus in accordance with claim 1 with the limiter (fig.1); However, Coasts fail to disclose of the wherein the limited dynamic

range of said level signal is substantially 20 db. However, official notice is taken the limitation of having the signal to being substantially at the specific level of 20db is simply the inventor's preference, thus it would have been obvious for one of the ordinary skill in the art at the time of the invention to have incorporated the limited dynamic range of the signal level to being substantially 20 db, for the purpose not overdriven the voltage controlled amplifier.

Allowable Subject Matter

1. Claims 8-9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In regard to Claim 1, while Coats et al. disclose of the input terminal and output terminal and the output adder with the first and second inputs and the manually controller intercoupling said first input terminal and said first input; a level detector having its input coupled to said input terminal and providing a level signal representing of the level on said input terminal.

But, Coats fail to disclose of the band pass filter having its input coupled to the output of said manually controlled volume controller characterized by a center frequency at a predetermined bass frequency, a lookup table having its input coupled to the output of said level setting adder and providing a gain signal representative, of a desired gain

that is dependent upon the input signal level and the manually set volume controller setting, and a gain controller coupling the band pass filter to the second input of said output adder and coupled to the lookout table output and responsive to the latter output for establishing said desired gain.

4. Claims 1-6 are allowed.

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Disler Paul whose telephone number is 571-270-1187. The examiner can normally be reached on 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chin Vivian can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

DP


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